

REMARKS

The Office action dated December 14, 2006, is acknowledged. Claims 1-10 are pending in the instant application. According to the Office action, each of these claims has been rejected. Reconsideration is respectfully requested in light of the following remarks.

Rejection of Claims 1-10 under 35 U.S.C. 103(a)

Claims 1-10 have been rejected as being obvious under 35 U.S.C. 103(a) as being unpatentable over Tiozzo (EP 0909721 A1).

The Examiner's view with regard to the obviousness of claims 1-10 in view of Tiozzo is that it would be within the ordinary skill of the art to extend the hole size of Tiozzo up to the edge of the strips in view of the teaching to vary the hole size at will.

Claims 1-10 have also been rejected as being obvious under 35 U.S.C. 103(a) as being unpatentable over Heikaus et al. (WO 01/60709 A1).

The Examiner's view with regard to the obviousness of claims 1-10 in view of Heikaus is that it would be within the ordinary skill of the art to vary the hole size of Heikaus up to the edge of the strips, depending on the need for ventilation, as the reference teaches that the strips will prevent the holes from tearing beyond the edge of the strips.

The present invention is based on the object to improve a stretch film known from Tiozzo or Heikaus such that higher stretch rates are possible without tearing the rims of the holes in the film.

According to present claim 1, this object is achieved by a stretch film wherein the width of at least part of the strips extending in transverse direction in relation to the main direction is dimensioned such that the strips each reach up to the rows of holes adjacent to said strips. Thereby, the parts of the base film material where a tearing can occur due to a notch effect or a stress concentration is strengthened by the additionally applied strips. This aspect finds support in paragraph [0007] of the present application.

It has been discovered by the inventors that particularly at high stretch rates, a tearing of the prior art stretch film occurs at first at the holes. The tearing advances from the rims of the holes until the whole stretch film is torn. By applying film strips on the base film, which film strips have a width such that they reach up to the holes, the strips cover the regions where a higher tension occurs due to the stress concentration. Thus, the effective stress or force can be distributed on a bigger cross section area provided by the base film and the strips.

Such knowledge cannot be derived from Tiozzo or Heikaus. Rather, in Heikaus, reinforcement strips 12 are attached in particular areas of the main film 10 with a considerable distance from the rows of holes 14 as shown in Fig. 1 of Heikaus. This same situation is also shown in Figure 2 of Tiozzo.

In any case, both Tiozzo and Heikaus are silent about the importance of the width of the reinforcement strip in relation to the design of the perforated film (i.e. the width of the holes or the distance between two holes in successive rows) and provide no indication that any advantageous solution may be reached by choosing a particular width of the strip to fit the distance between holes in adjacent rows (see Figs. 1, 2, and 3 of the present

application).

Therefore, even if a person skilled in the art would think of increasing the size of holes (like suggested in Tiozzo), he or she would also accordingly vary the width of the reinforcement strip.

Furthermore, what Heikaus actually teaches in Section 0006 is that a tearing can only grow up to a reinforcement strip. This is a different teaching than the teaching of the present application.

In the present application, the strips are dimensioned so that a tearing does not even occur when the film is stretched. This improved solution leads to an advantageous film product that can be adequately stretched without the formation of tears as described in paragraph [0031] of the present application and depicted in Fig. 4. Such a product is neither anticipated by nor obvious in view of Tiozzo or Heikaus.

The Examiner states that the specific orientation of the strips and the holes “would have been within the ordinary skill of the art to have extended the hole size of Tiozzo up to the edge of the strips in view of the teaching to vary the hole size at will; and that it would have been obvious to one of ordinary skill in the art to have varied the hole size of Heikaus up to the edge of the strips, depending on the need for ventilation, as the reference teaches that the strips will prevent the holes from tearing beyond the edge of the strips.” However, no documentary evidence has been provided to support this statement, and it is respectfully submitted that the foregoing statement is not capable of such instant and unquestionable demonstration as to defy dispute. The burden is upon the Examiner to support the allegation of technical facts by citation to some reference work well

recognized as a standard in the pertinent art. MPEP 2144.03(A), citing *In re Ahlert*, 424 F.2d at 1091, 165 USPQ at 420-21. The Examiner is required to present a convincing line of reasoning as to why the artisan would have found the claimed art obvious in light of the references. MPEP 2142. Under 35 U.S.C. 103, the Examiner must provide evidence which as a whole shows the legal determination sought to be proved. MPEP 2142. The prior art references must teach or suggest all of the claim limitations. MPEP 2143. It is respectfully submitted that no reference teaches or suggests that the strips each reach right up to the rows of holes adjacent to said strips. In Heikaus et al, it is stated that a tearing of the film will leave a small hole. [0006]. It is submitted that there must have been some distance between the edge of a hole and strip for the tearing to occur. Thus, all aspects of the claimed invention were not known in the prior art so that a prima facie case of obviousness has not been met. MPEP 2413.02. The Applicant specifically points out that by applying film strips on the base film, which film strips have a width such that they reach up to the holes, is not common knowledge or well known in the art. It is therefore requested that the Examiner provide the foregoing citation of the reference work noted above; if no such citation can be made, the Applicant respectfully requests that if the Examiner is relying on personal knowledge to support the finding of what is known in the art, that the Examiner provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding as required in 37 CFR 1.104(d)2.

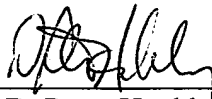
Conclusion

For the foregoing reasons and absent the material requested above, it is believed that the present application, with the claims in their amended form, is in condition for allowance, and such action is earnestly solicited. The Examiner is invited to call the undersigned if there are any remaining issues to be discussed which could expedite the prosecution of the present application.

Respectfully submitted,

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